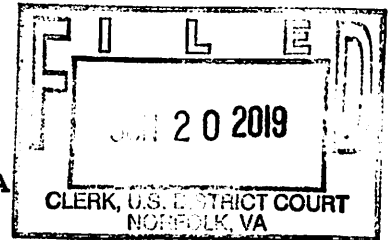


UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



KEVIN ANTONIO WATSON, #1003366,

Petitioner,

v.

ACTION NO. 2:18cv480

HAROLD W. CLARKE,
Director of Virginia
Department of Corrections,

Respondent.

FINAL ORDER

Petitioner Kevin Antonio Watson ("Watson"), a Virginia inmate, submitted a *pro se* petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254. ECF No. 1. Watson attacks his convictions, in the Circuit Court for the County of Henrico on November 22, 1999, for forcible sodomy, abduction, two counts of attempted robbery, and four counts of use of a firearm. *Id.* at 3. According to the petition, Watson was sentenced on February 25, 2000, to forty-five years in the Virginia penal system. *Id.*

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Local Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The report and recommendation, filed April 23, 2019, recommends


that respondent's motion to dismiss be granted, and Watson's petition be dismissed without prejudice to Watson refiling his federal petition after obtaining an order authorizing the filing of a successive petition from the Court of Appeals for the Fourth Circuit. ECF No. 18. Each party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. The Court has received no objections to the report and recommendation and the time for filing objections has expired.

The Court does hereby adopt and approve the findings and recommendations set forth in the report and recommendation. The Court, therefore, **ORDERS** that respondent's motion to dismiss, ECF No. 12, is **GRANTED**, and Watson's petition for a writ of habeas corpus, ECF No. 1, is **DISMISSED WITHOUT PREJUDICE** to Watson refiling his federal petition after obtaining an order authorizing the filing of a successive petition from the Court of Appeals for the Fourth Circuit.

Finding that the basis for dismissal of Watson's § 2254 petition is not debatable, and alternatively finding that Watson has not made a "substantial showing of the denial of a constitutional right," a certificate of appealability is **DENIED**. 28 U.S.C. § 2253(c); see Rule 11(a) of the Rules Gov. § 2254 Cases in U.S. Dist. Cts.; *Miller-El v. Cockrell*, 537 U.S. 322, 335-38 (2003); *Slack v. McDaniel*, 529 U.S. 473, 483-85 (2000).

Watson is **ADVISED** that because a certificate of appealability is denied by this Court, he may seek a certificate from the United States Court of Appeals for the Fourth Circuit. Fed. R. App. P. 22(b); Rule 11(a) of the Rules Gov. § 2254 Cases in U.S. Dist. Cts. If Watson intends to seek a certificate of appealability from the Fourth Circuit, he must do so **within thirty days** from the date of this Order. Watson may seek such a certificate by filing a written notice of appeal with the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510.

The Clerk shall mail a copy of this final order to Watson and counsel of record for respondent.



Mark S. Davis
Chief Judge

Mark S. Davis
Chief United States District Judge

Norfolk, Virginia
June 20, 2019